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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,593

09/19/2005

Katsuhiro Fujimoto

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EXAMINER

LEE, DORIS L

ART UNIT

PAPER NUMBER

1764

MAIL DATE

DELIVERY MODE

10/21/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,593	Applicant(s) FUJIMOTO ET AL.	
	Examiner DORIS L. LEE	Art Unit 1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,14-22,25 and 29-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,14-22,25 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. No new grounds of rejection are set forth below. Thus, the following action is made final.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

Claim Rejections - 35 USC § 103

3. **Claims 1-3, 5-6, 14-17, 29-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kelsey et al (US 6,093,789)** in view of **Ciba Irganox 5057 documentation (referred to as the "Ciba document")**.

The rejection is adequately set forth in paragraph 3 of the Office Action mailed on May 27, 2010 and is incorporated here by reference.

4. **Claims 7-8, 18-22 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kelsey et al (US 6,093,789)** in view of **Ciba Irganox 5057 documentation (referred to as the "Ciba document")**, **Kikuchi et al (US 4,897,438)**.

The rejection is adequately set forth in paragraph 4 of the Office Action mailed on May 27, 2010 and is incorporated here by reference.

Response to Arguments

5. Applicant's arguments filed August 27, 2010 have been fully considered but they are not persuasive for the reasons set forth below:
6. **Applicant's argument:** One of ordinary skill would not have combined Ciba with Kelsey because Ciba teaches that the main application for Irganox 5057 is polyurethane foams.

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Examiner's response: *Although Ciba teaches that one of the applications for the Irganox 5057 is for polyurethane foam, it is also noted that Ciba teaches that it is appropriate for various polymers (Characterization section) and therefore is appropriate to use in combination with the Kelsey reference. As Irganox 5057 is a well known antioxidant, the applicant's invention seems to be no more than taking a known polymer and adding known antioxidants to the composition.*

7. **Applicant's argument:** Based on the examples, it appears that Kelsey is using a significantly smaller amount of its hindered phenol stabilizer. The amounts are incompatible.

Examiner's response: *The data in Table 5 of Kelsey teach the addition of about 0.05 - 0.1 weight % of the hindered phenol. This is comparable to the 1000-4000 ppm (0.1 - 0.4 %) as taught by the Ciba reference.*

8. **Applicant's argument:** The technical idea of the present invention is different from Kelsey.

Examiner's response: *As acknowledged by the applicant, the presently claimed invention is drawn towards a composition and not a method claim and as such, the order of adding the various components does not confer patentability when considering a compositional invention. Although the methodology of the presently claimed invention and the prior art may differ, the rejection is proper because it meets all the limitations of the claimed invention.*

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DORIS L. LEE whose telephone number is (571)270-3872. The examiner can normally be reached on Monday - Thursday 7:30 am to 5 pm and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Doris L Lee/
Examiner, Art Unit 1764

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1764